

REMARKS

Claims 1, 2, 4, 7, and 9-11 were rejected under 102(e) as being anticipated by Yang *et al.* (Pub. No. 2003/0065738). Regarding claim 1, at least the following limitations are not shown by Yang: (1) "a provisioning server operable to receive service information for the mobile communication device from at least one of a plurality of service providers and store the service information in a service update database;" (2) "in response to the provisioning update request determine if the stored service information has previously been transmitted to the mobile communication device[;]" and (3) "if the stored service information has not previously been transmitted to the mobile communication device, then encapsulate the service information in a service update data message and transmit the service update data message to the mobile communication device."

Regarding the first limitation listed above, Yang does not disclose "service providers" at all. It merely lists a call center 130 and a file server 150. Neither of these elements are service providers. Examples of service providers are given on page 4, lines 9-11 of the specification. This element of the claims is simply not shown.

Regarding the second limitation, Yang does not "determine if the stored service information has previously been transmitted to the mobile communications device." Yang has a different function that retrieves different results in a different way: it presents a call center that searches to "identify[] whether a requested application already resides in memory of the mobile device." (paragraph 0045.) Yang does not determine whether any information has been transmitted, but Yang involves a search of a database, (see paragraph 0045), apparently to determine if the mobile device was manufactured with the requested program in resident

memory. These different methods will achieve different results that may be more or less accurate depending on the circumstances.

Regarding the third limitation, Yang does not disclose "encapsulat[ing] the service information in a service update data message and transmit[ing] the service update data message to the mobile communication device." This is a one-step process that accomplishes loading the requested data into the mobile device. Yang discloses a more complicated multi-step process, wherein the call center (1) sends a message to the mobile device of the requestor containing a file retrieve command; (2) the mobile device executes the command; (3) the command prompts the device to either (i) download the activation program or (ii) activate the application program stored in the memory of the device. (Paragraph 0044.) Since the Office Action points to no specific part of the seven cited paragraphs 0041-0047 Applicants can only guess that the Examiner was pointing to this feature of Yang as anticipating the claimed limitation. Furthermore, nothing else disclosed in Yang anticipates this claim limitation either.

Accordingly, claim 1 is not anticipated by Yang, and claims 2, 4, 7, and 9 that depend from claim 1 are also not anticipated for at least the same reasons.

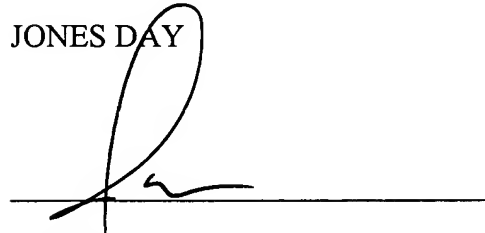
Claim 10 has limitations that are similar to three limitations that are not shown in Yang, and, for the same reasons discussed above, claim 10 is also not anticipated by Yang. Claim 11 depends on claim 10 and is therefore also not anticipated.

Claims 5, 6, and 8 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yang in view of Hronek (U.S. Pat. No. 6,564, 056). Hronek does not cure the deficiencies of Yang that were discussed above. Claims 5, 6, and 8 are dependent on claim 1, and therefore should be allowable for at least the same reasons as claim 1.

For the foregoing reasons, Applicants request that the rejection be removed and the application be passed to issue.

Respectfully submitted,

JONES DAY

A handwritten signature in black ink, appearing to be 'J. M. Sauer', is written over a horizontal line. The signature is stylized with a large loop at the beginning and a small flourish at the end.

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